



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1621-E Entitled, "An Ordinance Adopting the 'Uniform Code for the Abatement of Dangerous Buildings', 1994 Edition, Which Code Provides Regulations for the Repair, Vacation and Demolition of Buildings or Structures Endangering the Life, Limb, Health, Property, Safety and Welfare of the General Public and Their Occupants; Providing Procedures and Penalties for Violation Thereof; Repealing Sections 15.28.010 Through 15.28.170 Inclusive of the Code of the City of Lodi, and All Other Ordinances and Parts of Ordinances in Conflict Therewith"

MEETING DATE: December 20, 1995

PREPARED BY: City Clerk

RECOMMENDED ACTION: Following reading by title, it would be appropriate for the City Council to adopt Ordinance No. 1621-E.

BACKGROUND INFORMATION: Ordinance No. 1621-E entitled, "An Ordinance Adopting Regulations for the Repair, Vacation and Demolition of Buildings or Structures Endangering the Life, Limb, Health, Property, Safety and Welfare of the General Public and Their Occupants; Providing Procedures and Penalties for Violation Thereof; Repealing Sections 15.28.010 Through 15.28.170 Inclusive of the Code of the City of Lodi, and All Other Ordinances and Parts of Ordinances in Conflict Therewith" was introduced at the regular City Council meeting of December 6, 1995.

Pursuant to State statute, ordinances may be adopted five days after their introductions following reading by title.

This Ordinance has been approved as to form by the City Attorney.

FUNDING: None required.


Jennifer M. Perrin
City Clerk

JMP

Attachment

APPROVED: _____


H. DIXON FLYNN
City Manager

ORDINANCE NO. 1621-E

AN ORDINANCE ADOPTING THE "UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS," 1994 EDITION, WHICH CODE PROVIDES REGULATIONS FOR THE REPAIR, VACATION, AND DEMOLITION OF BUILDINGS OR STRUCTURES ENDANGERING THE LIFE, LIMB, HEALTH, PROPERTY, SAFETY AND WELFARE OF THE GENERAL PUBLIC AND THEIR OCCUPANTS; PROVIDING PROCEDURES AND PENALTIES FOR VIOLATION THEREOF; REPEALING SECTIONS 15.28.010 THROUGH 15.28.170 INCLUSIVE OF THE CODE OF THE CITY OF LODI, AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the City Council of the City of Lodi did on the 15th day of November, 1995, schedule a public hearing on the above-entitled ordinance for December 6, 1995, at the hour of 7:00 o'clock p.m. of said day in the Carnegie Forum, 305 West Pine Street, Lodi, California, in accordance with the provisions of Section 50022.1 et seq. of the Government Code; and

WHEREAS, notice of the hearing was published twice in a newspaper of general circulation in accordance with the provisions of Section 50022.3 of the Government Code as appears by the Affidavit of Publication on file therein; and

WHEREAS, at the time set for hearing no protests were received by the City Council;

NOW THEREFORE the City Council of the City of Lodi does ordain as follows:

Section 1. Sections 15.28.010, through 15.28.170, inclusive of the Codes of the City of Lodi are hereby repealed and the same are superseded and replaced by new Sections 15.28.010, through 15.28.140.

Section 2. There is hereby adopted a new Section 15.28.010 of the Code of City of Lodi to read as follows:

Sec. 15.28.010. Adoption.

The provisions set forth in the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, are adopted as the Unsafe Building Abatement Code of the City of Lodi. The Unsafe Building Abatement Code of the City of Lodi shall apply in all matters pertaining to dangerous buildings, as defined in this chapter, which are in existence or which may be constructed in the City of Lodi.

Section 3. There is hereby adopted a new Section 15.28.020 of the Code of the City of Lodi to read in full as follows:

Sec. 15.28.020 Section 205 deleted - Board of appeals.

Section 205 “Board of Appeals,” of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, is deleted.

Section 4. There is hereby adopted a new Section 15.28.030 of the Code of the City of Lodi to read as follows

Section 15.28.030 Section 303 added-Board of appeals.

Section 303, “Board of Appeals,” is added to the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, as follows:

Whenever in this Code reference is made to the “Board of Appeals” it shall mean the City Council of the City of Lodi.

Section 5. There is hereby adopted a new Section 15.28.040 of the Code of the City of Lodi to read in full as follows:

Section 15.28.040 Section 304 added - Building Official

Section 304 “Building Official,” is added to the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, to read as follows:

Whenever in this Code reference is made to “Building Official” it shall mean the legally designated Chief Building Inspector or the Community Improvement Manager of the City of Lodi or his authorized representative.

Section 6. There is hereby adopted a new Section 15.28.050 of the Code of the City of Lodi to read in full as follows:

Section 15.28.050 Section 305 added - City health officer.

Section 305, “City Health Officer,” is added to the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, to read as follows:

Whenever in this Code reference is made to the “City Health Officer,” or “Health Officer,” it shall mean the legally designated Director of the San Joaquin County Environmental Health Division or his authorized representative.

Section 7. There is hereby adopted a new Section 15.28.060 of the Code of the City of Lodi to read in full as follows:

Section 15.28.060 Section 306 added - Fire marshal.

Section 306," Fire Marshal," is added to the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, to read as follows:

Whenever in this Code reference is made to the "City Fire Marshal" or "Fire Marshal" it shall mean the Fire Marshal of the City of Lodi or his authorized representative.

Section 8. There is hereby adopted a new Section 15.28.070 of the Code of the City of Lodi to read in full as follows:

Section 15.28.070 Section 501(a), (b) and (c) amended-Appeal to City Council

Section 501.1, 501.2, and 501.3 of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, is added to read as follows:

Section 501 Appeal to City Council.

Any person aggrieved by any order of the Building Official hereunder to repair, vacate and repair, or demolish any building or structure, or portion thereof, may appeal such order to the City Council. The appeal which shall be in writing and which shall state the substance of the order appealed from, shall be submitted to the City Council within ten (10) days from the date of personal service or mailing of the order which is being appealed. The City Council shall set the matter for hearing. Notice of the date, hour and place of the hearing shall be posted and served at least ten (10) days before the dated set for the hearing in the manner and upon the person specified in Section 401.3, 401.4 and 401.5. The notice shall order all interested parties who desire to be heard to appear and show cause, if any they have, why the building or structure, or portion thereof, involved in the proceedings should not be repaired, vacated and repaired or demolished.

Section 9. There is hereby adopted a new Section 15.28.080 of the Code of the City of Lodi to read in full as follows:

Section 15.28.080 Sections 505 amended - Hearing before city council.

Sections 505 of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, is added to read as follows:

Hearing Before City Council. At the time stated in the notice, the City Council shall hold a hearing, and hear and consider any evidence offered by the Building Official, owner, occupant or person in charge and control, mortgagee or beneficiary under any deed of trust, lessee, or any other person having any estate or interest in said building or structure, pertaining to the matters set forth in the Notice to Repair, Vacate and Repair, or Demolish. Upon the conclusion of the hearing, the City Council shall render its decision.

Section 10. There is hereby adopted a new Section 15.28.090 of the Code of the City of Lodi to read in full as follows:

Section 15.28.090 Section 506 amended - Order of city council.

Section 506 of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, is added to read as follows:

Order of City Council. If, from a full and fair consideration of the evidence and testimony received at the hearing, the City Council shall determine that the building or structure, or any portion thereof, is unsafe and a public nuisance, then it shall overrule the appeal and issue an order certified by the City Clerk;

1. That the building or structure must be repaired, vacated and repaired, or demolished;
2. That the occupant, lessee, or other person in possession must vacate said building or structure, or that he may remain in possession while repairs are being made;
3. That any mortgagee, beneficiary under a deed of trust, or any other person having an interest or estate in said building or structure may, at his own risk, repair, vacate and repair, or demolish it.

The order shall (i) set forth the information required in Section 401.2 Item 1; (ii) contain a statement of the particulars that render the building or structure unsafe and a public nuisance; and (iii) contain a statement of the things required to be done. The order shall specify (i) the time within which the work required must be commenced, which shall be not less than ten days after the issuance of the order, and (ii) a reasonable time within which the work shall be completed.

Section 11. There is hereby adopted a new Section 15.28.100 of the Code of the City of Lodi to read in full as follows:

Section 15.28.100 Section 507 amended - Serving and posting of order of city council.

Section 507 of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, is added to read as follows:

Serving and Posting of Order of City Council. Copies of the order of the City Council. Copies of the order of the City Council shall be posted on the building or structure involved and served in the manner and upon the persons specified in Section 401.3, 401.4 and 401.5.

Section 12. There is hereby adopted a new Section 15.28.110 of the Code of the City of Lodi to read in full as follows:

Section 15.28.110 Section 601 through 605 deleted - Procedure for conduct of hearing appeals.

Sections 601 through 605 inclusive, "Procedure for Conduct of Hearing Appeals," of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, are deleted.

Section 13. There is hereby adopted a new Section 15.28.120 of the Code of the City of Lodi to read in full as follows:

Section 15.28.120 Section 801.1 amended - Sale, repair or demolition..

Section 801.1 of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, is amended to read as follows:

Section 801.1. Sale, Repair or Demolition. Whenever an order to repair, vacate and repair, or demolish any building or structure, or any portion thereof, has not been complied with within the time set by the Building Official, or by the City Council, whether under appeal or not, the City Council shall have the power, in addition to any other remedy herein provided, to:

1. Cause the material of any such building or structure to be sold in any manner that the Council may determine upon; provided, however, that any such sale shall be upon condition that the building or structure be forthwith demolished, the wreckage and debris thereof removed and the lot cleaned. The Council may sell any such building singly or otherwise. Any surplus from the sale of any such building or structure, or group of buildings and structures, over and above the cost of demolition and of cleaning the site shall be retained to be distributed to the parties or persons lawfully entitled thereto.

2. Cause the building or structure to be repaired or demolished. The cost thereof shall be assessed against the property upon which the particular building or structure is located or the Repair and Demolition Fund. The repair or demolition of any building or structure, or sale of the materials thereof, shall be by a contract awarded following advertisement for bids, to the lowest and best bidder in the case of repair or demolition work and to the highest and best bidder in the case of the sale of material.

Arrangements, as prescribed by the City Council in this Section, preparing for the repair, demolition, or sale of materials, of or from any structure discussed in this Code shall be the responsibility of the Building Official. However, no such arrangements nor other work to that end shall be initiated prior to specific instructions from the City Council indicating such action.

Section 14. There is hereby adopted a new Section 15.28.130 of the Code of the City of Lodi to read in full as follows:

Section 15.28.130 Section 901 amended - Record of work done by city.

Section 901 of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, is amended to read as follows:

The Building Official shall keep an itemized account of the expense incurred by the city in the repair or demolition of any building done pursuant to the provisions of Section 701.3 Item 3 of this Code. Upon the completion of the work of repair or demolition, said Building Official shall prepare and file with City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitle to notice pursuant to Section 401.3.

Section 15. There is hereby adopted a new Section 15.28.140 of the Code of the City of Lodi to read in full as follows:

Section 15.28.140 Violation - Penalty.

A. No person, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provision of this chapter.

B. Any person, firm, or corporation violating any provision of this Code shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine and/or imprisonment set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this Code occurs or continues, shall be deemed to constitute a separate offense.

Section 16 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

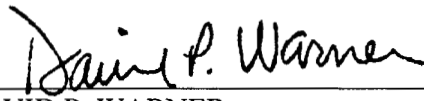
Section 17 - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 18. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 19. This ordinance shall be published one time in the "Lodi News Sentinel", a

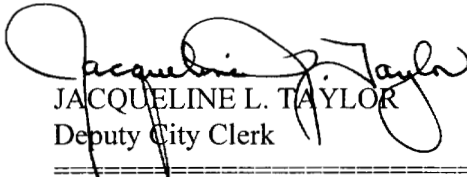
daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 20th day of December, 1995



DAVID P. WARNER
Mayor

Attest:


JACQUELINE L. TAYLOR
Deputy City Clerk

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State of California
County of San Joaquin, ss.

I, Jacqueline L. Taylor, Deputy City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1621-E was introduced at a regular meeting of the City Council of the City of Lodi held December 6, 1995 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held December 20, 1995 by the following vote:

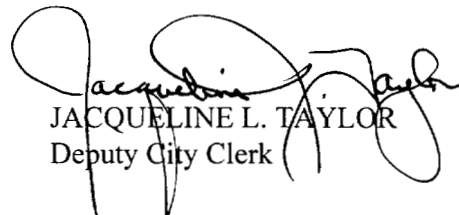
Ayes: Council Members - Mann, Pennino, Sieglock and Warner (Mayor)

Noes: Council Members - Davenport


Absent: Council Members - None

Abstain: Council Members -None

I further certify that Ordinance No. 1621-E was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.


JACQUELINE L. TAYLOR
Deputy City Clerk

Approved as to Form


RANDALL A. HAYS
City Attorney